IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE 12TH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 786 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/02/2005 in WP NO : 23702 OF 2004 on the file of the High Court.)

Between:

A.P. STATE WARE HOUSING CORPORATION, NAMPALLI, Hyderabad, rep. by its Managing Director.

..... APPELLANT

AND

A. Ramdas, S/o. Venkatappaiah, R/o. 4-2-137, Srinagar Colony, Rotang Nagar, Khammam.

.....RESPONDENT

Counsel for the Appellant:MS.R.KAMESWARI

Counsel for the Respondent : MR.G.VIDYASAGAR

The Court made the following :

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ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the appellant herein aggrieved by the order in W.P.No:23702 of 2004, under which the learned single Judge allowed the writ petition to the extent indicated therein.

The respondent herein is the writ petitioner and the appellant is the respondent in the writ petition. W.P.No:23702 of 2004 has been filed by the writ petitioner seeking for a direction to declare the proceedings No:SWC/QC2/2447/Retd./STd.loss/2004, dated 22.11.2004 as illegal and arbitrary and to declare the action of the respondent-Corporation in not releasing the retrial benefits to the petitioner on retirement from services of the Corporation on 31.1.2004 A.N. as illegal and arbitrary and to direct the respondent-Corporation to release the gratuity, provident fund, encashment of leaves, group insurance claims and other terminal benefits to which the petitioner is entitled to as on the date of his retirement i.e., 31.1.2004 together with interest at 18% p.a.

The learned single Judge having observed that it does not indicate that the petitioner was responsible for payment of storage loss and no departmental enquiry is conducted fixing the liability for causing storage loss, set aside the order impugned and allowed the writ petition. Having aggrieved by the same, the present writ appeal is preferred by the respondent-Corporation.

Heard the learned counsel on either side.

It is contended by the respondent-Corporation that the Corporation did not

write off the storage loss and as per the Regulation 6 of A.P. State Warehousing Corporation Employees Gratuity Fund Regulations 1974, the Corporation can at its discretion adjust any amount due to the Corporation from out of the gratuity and therefore, the impugned order does not call for any interference by this Court.

On the other hand, it is contended by the learned counsel for the petitioner that the Corporation has issued the proceedings dated 25.4.2003 dropping all the charges and that as on today, no departmental enquiry has been initiated fixing the liability of the petitioner and that even the impugned does not indicate that the petitioner was responsible for the alleged storage loss. Therefore, the order under appeal does not call for any interference by this Court.

We have perused the order impugned and the material available on record. The record goes to show that while deciding the representation of the petitioner as per the orders of this Court, basing on the lengthy service of 37 years of the petitioner, the Managing Director of the Corporation has come to the conclusion that the petitioner is the only person to do such a huge loss to the Corporation. But, the impugned order does not disclose the basis on which the petitioner is directly involved for causing loss to the Corporation. No Departmental enquiry has been initiated against the petitioner for fixing the liability. It is also apparent on the record that correspondence is being continued with the Food Corporation of India as to the write-off of the storage losses. In this background of the matter, having allowed the petitioner to retire on attaining the superannuation and having continued the correspondence with the Food Corporation of India seeking to write off the storage losses, the action of the respondent-Corporation withholding the retiral benefits of the petitioner, is arbitrary as rightly observed by the learned single Judge.

In the facts and circumstances of the case, in our considered view, the order of the learned single Judge, needs no interference by this Court and We see no merits in this appeal.

Accordingly, this writ appeal is dismissed at the admission stage. No costs.

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Justice T.Meenakumari

12th April, 2005

justice L.Narasimha Reddy

Gurc.

Copies to

1.The Managing Director, A.P. State Ware Housing Corporation, Nampalli, Hyderabad.

2.Two C.Ds.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

W.A.No:786 OF 2005.

(order pronounced by the Honourable Smt.Justice T.Meenakumari)

12th April, 2005